

I.C.R. 44.2. Mandatory Appointment of Counsel for Post-Conviction Review After Imposition of Death Penalty.

Idaho Criminal Rule 44.2. Mandatory Appointment of Counsel for Post-Conviction Review After Imposition of Death Penalty.

(1). Immediately following the imposition of the death penalty, the district judge who sentenced the defendant shall appoint at least one attorney to represent the defendant for the purpose of seeking any post-conviction remedy referred to in I.C. Section 19-2719(4) that the defendant may choose to seek. This appointment shall be made in compliance with the standards set forth in Idaho Criminal rule 44.3, and the attorney appointed shall be someone other than counsel who represented the defendant prior to the imposition of the death penalty. This new counsel shall not be considered to be co-counsel with any other attorney who represents the defendant, but may also be appointed to pursue the direct appeal for the defendant.

(2). Compensation and Payment of Expenses.

(a) Unless counsel is employed by a publicly funded office, lead counsel appointed to represent a capital defendant in post-conviction proceedings shall be paid an hourly rate of one hundred dollars (\$100.00) per hour.

(b) The trial court shall authorize additional payments for expenses incidental to representation (including, but not limited to, investigative, expert and other preparation expenses) necessary to adequately litigate those post-conviction claims that are allowed pursuant to I.C. Section 19-2719, to the same extent as a person having retained his own counsel is entitled.

(c) Compensation and payment of expenses shall be made pursuant to the provisions of I.C. § 19-860(b). Counsel shall submit timely claims for compensation and payment of expenses in the manner provided in I.C. Section 31-1501 et seq.

(Adopted effective August 8, 1995; amended January 7, 2003, effective February 1, 2003.)

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